

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF SOUTH CAROLINA

Roberta Phillips,)	
)	C/A No. 3:11-1085-MBS
Plaintiff,)	
)	
vs.)	
)	ORDER
Michael J. Astrue, Commissioner of)	
Social Security,)	
)	
Defendant.)	
_____)	

Plaintiff Roberta Phillips filed the within action on May 5, 2011, seeking judicial review of a final decision of Defendant Commissioner of Social Security denying Plaintiff's application for disability insurance benefits.

In accordance with 28 U.S.C. § 636(b) and Local Rule 73.02, D.S.C., this matter was referred to United States Magistrate Judge Joseph R. McCrorey for pretrial handling. On August 14, 2012, the Magistrate Judge issued a Report and Recommendation in which he determined that the Commissioner's decision was not supported by substantial evidence. Accordingly, the Magistrate Judge recommended that the case be remanded to the Commissioner (1) to evaluate the opinion of Plaintiff's treating physician; (2) to evaluate Plaintiff's credibility in light of all the evidence; and (3) if necessary, to determine whether there are jobs that exist in the economy that Plaintiff can perform. Plaintiff filed no objections to the Report and Recommendation. On August 31, 2012, the Commissioner filed a Notice of Not Filing Objections to the Report and Recommendation of Magistrate Judge.

The Magistrate Judge makes only a recommendation to this court. The recommendation has no presumptive weight. The responsibility for making a final determination remains with this court.

Mathews v. Weber, 423 U.S. 261, 270 (1976). The court is charged with making a de novo determination of any portions of the Report and Recommendation to which a specific objection is made. The court may accept, reject, or modify, in whole or in part, the recommendation made by the Magistrate Judge or may recommit the matter to the Magistrate Judge with instructions. 28 U.S.C. § 636(b)(1). In the absence of a timely filed objection, a district court need not conduct a de novo review, but instead must “only satisfy itself that there is no clear error on the face of the record in order to accept the recommendation.” Diamond v. Colonial Life & Acc. Ins. Co., 416 F.3d 310, 315 (4th Cir. 2005).

The court has carefully reviewed the record and concurs in the recommendation of the Magistrate Judge. The court adopts the Report and Recommendation and incorporates it herein by reference. For the reasons set forth herein and in the Report and Recommendation, the decision of the Commissioner to deny benefits is **reversed** and the action **remanded** under sentence four of 42 U.S.C. § 405(g) for further administrative action.

IT IS SO ORDERED.

/s/ Margaret B. Seymour
Chief United States District Judge

Columbia, South Carolina

September 7, 2012